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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirteenth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)*
OF THE 58th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 8 December 1995, at 11.50 a.m.

Chairperson: Mr. ALVAREZ VITA

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* The summary record of the first part (closed) of the meeting appears as document E/C.12/1995/SR.58.

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The public meeting was called to order at 11.50 a.m.

REPORT OF THE COMMITTEE TO THE ECONOMIC AND SOCIAL COUNCIL (agenda item 9) (continued)

Paper on Panama drafted by Mr. Texier

1. The CHAIRPERSON invited Mr. Texier to present the draft text on the housing situation in Panama, which was available in French only. The text read: 1/

"DRAFT FOLLOW-UP PAPER ON THE HOUSING SITUATION IN PANAMA

1. The report of the Technical Assistance Mission sent to Panama from 16 to 22 April 1995 by the Committee on Economic, Social and Cultural Rights marked a new stage in relations between the Committee and one of the States parties to the International Covenant on Economic, Social and Cultural Rights, and a new point of departure in following up the policy of the Government of Panama in regard to housing.

2. The Committee welcomes the thrust of programmes and measures adopted by the Government so far in regard to low-cost housing and the suspension of forcible evictions, which were frequent under previous Governments.

3. It consequently expresses surprise and concern at the decision taken by the President of the Republic on 14 August 1995 to exercise his right to veto the law 'establishing the minimum size of low-income dwellings and adopting other provisions'. The law had been approved by the Legislative Assembly in response to the basic requirement to satisfy the need for decent housing, as solemnly proclaimed by the Government.

4. The grounds on which the President's veto is based seem to indicate an adverse change in social policy, since the purchasing power of the most disadvantaged groups and fair prices on the housing market are adduced as the principal arguments for considering that the establishment of a minimum size is contrary to national housing and urban development policy.

5. In this connection, the Committee considers that any social housing programme worthy of the name cannot simply be based on market forces, but must also take into account criteria which recognize the need to favour, even provide for, the basic needs of low-income groups and, in particular, their right to housing.

6. The Committee remains concerned by the persistent conflicts between the indigenous communities and landowners in the Bocas del Toro province, for which a lasting settlement will not be found until the boundaries of the indigenous 'Comarca' of the Ngöbé-Buglé people are defined."

1/ Provisional translation by the secretariat.

2. Mr. TEXIER said that the draft text was in fact the result of a collaboration between himself and Mr. Wimer Zambrano. In addition to considering the paper paragraph by paragraph, the Committee would have to decide on the use to which it should be put once it was adopted. There were two possibilities: either it could be included in the Committee's concluding observations, in which case the secretariat would inform the Government of Panama of its contents in a letter to the Permanent Mission; or else it could be redrafted in the form of a letter to be addressed directly to the Government of Panama. He himself favoured the latter course.

3. He would remind members that, following the mission undertaken by Mr. Wimer Zambrano and himself in April 1995, the Committee had, at its May session, noted the efforts made by the Government of Panama, and had considered that it would be useful to follow up those efforts. Some non-governmental organizations had subsequently transmitted additional information to the Centre for Human Rights, particularly with regard to the presidential veto on the law establishing a minimum size for low-cost housing, a law which the Committee had welcomed in its previous report. The Centre for Human Rights had prepared a file on the question, which formed the basis for the present document.

4. Mr. GRISSA, referring to the closing words of paragraph 1 of the paper, said that other missions might take place in the future, in connection with other rights. The words "in regard to matters of housing" should be replaced by "in the realization of economic and social rights".

5. Mr. TEXIER said that the mission's mandate had been restricted to the right to housing.

6. Mr. SIMMA observed that paragraph 1 consisted of just one extremely long sentence.

7. Mr. TEXIER said that the paragraph could be recast as two sentences. The second sentence would begin with the words "It marks a new point of departure ...".

8. Mr. WIMER ZAMBRANO said he wished to stress the point already made by Mr. Texier: the mission's mandate had concerned exclusively to the right to housing.

9. Mr. GRISSA said he acknowledged that fact. None the less, the text referred to a new stage in the development of relations between the Committee and States parties. In the future, such missions might be extended to cover other rights.

10. Mr. WIMER ZAMBRANO said that the text was intended, not as a general declaration, but as a preliminary draft letter, prompted by a request submitted by an NGO, the purpose of which was to remind the Government of Panama of its specific obligations with regard to the right to housing.

11. Mr. CEAUSU said that Mr. Grissa's concern might perhaps be met by the wording: "... in fields covered by the Covenant, particularly in regard to housing."

12. Mr. GRISSA proposed the wording: "... the policy of that State in the present context, in regard to housing."

13. Mr. SIMMA said that including the letter in the report would not suffice. It should also be forwarded to the Government of Panama to ensure follow-up. As for paragraph 3, he inquired whether the law in question had been allocated a number. If so, the number should be included in place of the phrase between quotation marks. He also had some difficulty with the use of the word "proclaimed" in the last sentence. To what exactly did it refer? Perhaps "recognized by the Government" would be more appropriate. Furthermore, he questioned the meaning of "fair prices", in paragraph 4.

14. Mr TEXIER said that the reference documents did not give a number for the law in question; although it had been approved by the Legislative Assembly, as a result of the presidential veto it had not actually entered into force. He endorsed the suggestion to replace "proclaimed" by "recognized". It was worth noting that during the mission to Panama mention had often been made of the concept of "decent housing". It was found in many official documents, and had also been used by the Minister of Housing during the interview with him. The Government aimed to do everything in its power to ensure decent housing for all, inter alia, by drafting legislation that would guarantee low-cost housing of a minimum size of 36 square metres. At that juncture the President had opposed the legislation on the grounds of economic difficulties.

15. Mr. KOUZNETSOV said he wondered whether it might not be appropriate to include a reference in the last sentence of paragraph 3 so as to establish a link between the legislation in question and the contents of the Covenant, in particular article 11.

16. Mr. AHMED suggested that the words "and corresponding to the contents of the Covenant" should be added at the end of that sentence.

17. Mr. CEAUSU said he wondered whether the Panamanian legislative system had been finalized. In some countries, parliament could overturn a presidential veto where the requisite majority was obtained. The Committee needed further information on that count, lest it become involved in legislative disputes between the President and the Legislative Assembly. He agreed that the reference to the housing market in paragraph 4 could be rendered more clearly. Furthermore, on what basis had the statement to the effect that the arguments put forward in the presidential veto seemed to indicate an adverse change in social policy? Had official documents or reports from NGOs been provided on the subject?

18. Mr. GRISSA drew attention to an apparent contradiction between paragraphs 2 and 6. The latter implied that forcible evictions were still taking place, whereas the former stated that the present Government had put an end to that practice. As to paragraph 4, he endorsed the remarks regarding the inappropriateness of "fair prices", which he suggested should be replaced by "actual prices".

19. Mr. WIMER ZAMBRANO said that all members had presumably been provided with the relevant documentation on the subject, including the actual text of the presidential veto, on the basis of which the letter had been drafted. He was not familiar with the legislative system in Panama, although it was likely that the Legislative Assembly could overturn a presidential veto. However, that was not the point. The issue at stake was that the President had blocked the enactment of a very popular piece of legislation by adopting a position which ran counter to any acceptable social policy. According to the presidential veto, apartments should be small so that poor people could enlarge them when their income increased. Good social policy was supposed to make the situation of the poor easier, not harder. He endorsed Mr. Grissa's proposed amendment to paragraph 4.

20. Mr. TEXIER said that an entire file had been placed at the Committee's disposal. It comprised reports from non-governmental organizations as well as the text of a letter from the President to a member of the Legislative Assembly, explaining the rationale behind the veto, and had been used for the summary given in the Committee's letter. He was not certain whether the Legislative Assembly could overturn a presidential veto. All the same, there was nothing to prevent the Committee writing to the Panamanian Government to express its concern, with a view to remedying the situation. As to Mr. Grissa's question, he saw no contradiction between paragraphs 2 and 6. To his knowledge, the present Government had abided by its decision not to carry out forcible evictions and the current dispute between indigenous populations and landowners referred to in paragraph 6 did not involve such practices.

21. Mr. CEAUSU suggested that a note should be added at the end of the letter inviting the Panamanian Government to inform the Committee of developments regarding the draft legislation.

22. The CHAIRPERSON said that the Committee still needed to decide whether the text should take the form of a letter or be included in the report.

23. Mr. SIMMA said he had been informed by the Secretary of the Committee that, under the normal procedure, the text should be reproduced in the report. A note verbale based on the text should also be sent to the Permanent Mission of the country concerned, with a request for the contents to be forwarded to the Government. That procedure should be followed in the case of Panama.

24. Mr. AHMED endorsed that suggestion.

25. The CHAIRPERSON said that, if he heard no objection, he would take it that the Committee wished to adopt the text, with the amendments proposed. A number of editing changes would be required in paragraph 1, which would be dealt with subsequently by the Secretary of the Committee. The procedure outlined by Mr. Simma would be followed.

26. It was so agreed.

Proposals on follow-up to the World Summit for Social Development

27. The CHAIRPERSON said that Mr. Simma had been requested to draft a paragraph, to be included in chapter VII of the report, on follow-up to the World Summit for Social Development.

28. Mr. SIMMA read out the following text to be incorporated as paragraph 16 of chapter VII of the Committee's report: "The Committee takes note of two working papers prepared by the Secretariat dealing with the implications of the Copenhagen World Summit for Social Development and of the Beijing Declaration and Platform for Action for the work of the Committee. The Committee regards these documents as a useful basis for discussion of the issues concerned at its next session. It therefore requests the Secretariat to make these papers available in all working languages in time for its May 1996 session."

29. The Committee would find the working paper extremely useful, particularly the one on the World Summit for Social Development, which was relevant to the routine work of the Committee. In order to ensure proper follow-up of the results of the Conference, the Committee would need to discuss the papers in detail at its next session, for which versions in all working languages must be available.

30. The CHAIRPERSON said that, if he heard no objection, he would take it that the Committee wished to approve the text as read out by Mr. Simma.

31. It was so agreed.

Letter to PROVEA (Venezuela)

32. Mr. SIMMA said that he had been requested to draft a reply to PROVEA, a Venezuelan NGO, regarding the request made on behalf of a number of Venezuelan NGOs for the Committee to consider at its next session the situation on the implementation of the Covenant in Venezuela. The letter read:

"Dear Ms. Bolivar,

As acting Chairperson of the United Nations Committee on Economic, Social and Cultural Rights, I would like to thank you for the letter you addressed to the Committee in the name of numerous Venezuelan non-governmental organizations.

In this letter you express the wish that the state of realization of the rights enshrined in the Covenant on Economic, Social and Cultural Rights in Venezuela be analysed by the Committee as soon as possible according to the procedure developed for the case of States not fulfilling their reporting obligations.

In this regard, I would like to draw your attention to the fact that Venezuela has submitted two initial reports due according to the former reporting cycle. These reports were considered by the (former) Economic and Social Council Committee in 1984 (initial reports on Covenant articles 6 to 9) and 1986 (articles 10 to 15). In the meantime,

a new reporting cycle has been adopted, requiring States to report on the implementation of the entire range of the rights contained in the Covenant every five years. Within this new system, the second periodic report of Venezuela was due on 30 June 1991.

The Committee has decided to consider the situation of economic, social and cultural rights in non-reporting States in the order derived from the length of time for which the reports are overdue. In this regard, however, more than 40 States parties to the Covenant have not even presented their initial reports. It is to States belonging to this category, therefore, that the Committee has to turn its attention first.

Let me take this opportunity to express the gratitude of the Committee for the interest which the Venezuelan organizations you represent take in the work of the Committee. You can be assured that the realization of the rights enshrined in the Covenant on Economic, Social and Cultural Rights in Venezuela will be considered by the Committee in due course with the utmost care. But you will certainly understand that, in performing its function, the Committee must follow orderly procedures foreseeable for all parties involved.

Yours sincerely,

Chairperson"

33. The CHAIRPERSON said that, if he heard no objection, he would take it that the Committee wished to adopt the text as read out by Mr. Simma.

34. It was so agreed.

35. The CHAIRPERSON said that, if he heard no objection, he would take it that the Committee wished to adopt the report as a whole, with the additional material to be incorporated in it.

36. The report of the Committee to the Economic and Social Council, as a whole, as amended, was adopted.

ORGANIZATION OF WORK (agenda item 2) (continued)

37. The CHAIRPERSON said that interpretation services and secretarial back-up would be provided for the pre-sessional working group at its meeting from 11 to 15 December. He also drew attention to a document on the organization of work for the session commencing on 29 April 1996.

CLOSURE OF THE SESSION

38. Mr. SIMMA conveyed his thanks to the secretariat for the considerably better service provided all round at the present session.

39. The CHAIRPERSON said that he, too, welcomed the improved secretariat services, particularly as regards the summary records, which had accurately reflected the views of members. He declared the session closed.

The public meeting rose at 12.40 p.m.